

AMENDED IN ASSEMBLY APRIL 22, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 501

Introduced by Assembly Member Levine

February 23, 2015

An act to add Chapter 6 (commencing with Section 85285) to Part 3 of Division 35 of the Water Code, relating to resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 501, as amended, Levine. Resources: Delta research.

Existing law, the Sacramento-San Joaquin Delta Reform Act of 2009, requires the Delta Stewardship Council to develop, adopt, and commence implementation of a comprehensive management plan for the Delta, meeting specified requirements. The act requires the Delta Independent Science Board to develop a scientific program relating to the management of the Delta.

This bill would require a person conducting Delta research, as defined, whose research is funded, in whole or in part, by the state, to take specified actions with regard to the sharing of the primary data, samples, physical collections, and other supporting materials created or gathered in the course of that research. *The bill would make a researcher ineligible for state funding if the researcher does not substantially comply with these requirements within 6 months of completing the Delta research project, until the researcher complies with those requirements.* The bill would authorize the Delta Independent Science Board to adopt guidelines to provide adjustments to, and, where essential, exceptions from, these requirements and would exempt the adoption of these guidelines from the procedural requirements for the adoption of regulations. The bill would require a state agency that funds or

participates in Delta research to implement policies to disseminate and share Delta research results, ~~in a specified manner, including, but not limited to, making it a condition of a grant that the grantee share research data, collections, and findings with other researchers.~~

~~The bill would make a researcher ineligible for state funding if the researcher does not provide the information required by the bill within 6 months of the date of the final publication or public dissemination of the research findings, until the researcher complies with the bill's requirements.~~

~~The bill would provide that all legal rights to tangible property collected or created during Delta research remain with the researcher, as determined by the policies of the organization providing the grant, contract, or other agreement, except as specified, but would require a researcher to make this tangible property appropriately available to other researchers.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6 (commencing with Section 85285) is
2 added to Part 3 of Division 35 of the Water Code, to read:

3
4 CHAPTER 6. DISSEMINATION AND SHARING OF STATE-FUNDED
5 DELTA RESEARCH DATA

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7 85285. For purposes of this chapter, the following definitions
8 shall apply:

9 (a) "Delta research" means scientific inquiry that meets one or
10 both of the following conditions:

11 (1) The San Francisco Bay or the Sacramento-San Joaquin Delta
12 is, in whole or in part, the locus of the research.

13 (2) The research addresses environmental factors relevant to
14 this division, including, but not limited to, hydrodynamics, salinity,
15 geomorphology, studies related to aquatic species, and water
16 quality, including mercury contamination, in the Sacramento River,
17 the San Joaquin River, or any tributary, including any
18 impoundment on any tributary, of the Sacramento or San Joaquin
19 Rivers.

1 (b) “Researcher” means a person who conducts Delta research
2 and whose research is funded, in whole or in part, by the state,
3 including, but not limited to, by a research grant.

4 ~~(c) “Tangible property” means personal property other than~~
5 ~~equipment and intellectual property.~~

6 85285.5. ~~The Legislature finds and declares all of the following:~~

7 ~~(a) The state normally allows researchers to retain principal~~
8 ~~legal rights to intellectual property developed through state-funded~~
9 ~~research to provide incentives for development and dissemination~~
10 ~~of inventions, software, and publications that can enhance their~~
11 ~~usefulness, accessibility, and upkeep.~~

12 ~~(b) These incentives do not, however, reduce the responsibility~~
13 ~~that investigators and organizations have, as members of the~~
14 ~~scientific and engineering community, to make results, data, and~~
15 ~~collections available to other researchers.~~

16 ~~(c) Some state-funded Delta research supports the collection or~~
17 ~~creation of tangible property, such as insects, marine life, drilling~~
18 ~~core samples, and genetically altered microorganisms.~~

19 85285.5. *It is the intent of the Legislature that persons*
20 *conducting Delta research have a responsibility, as members of*
21 *the scientific community, to share results and findings with other*
22 *researchers for the public benefit, including, but not limited to,*
23 *data, samples, and other material collected while conducting the*
24 *research.*

25 85286. Except as provided in Section 85286.5, a researcher
26 shall do all of the following:

27 (a) Provide the Delta Science Program with access to all primary
28 data created for conducting Delta research.

29 (b) Promptly prepare and submit for publication, with authorship
30 that accurately reflects the contributions of those involved, all
31 significant findings from Delta research.

32 (c) Permit and encourage the publication of Delta research by
33 those actually performing Delta research, unless a state funding
34 recipient intends to publish or disseminate those findings by itself.

35 (d) Share with other researchers, at no more than incremental
36 cost and within a reasonable time, the primary data, samples,
37 physical collections, and other supporting materials created or
38 gathered in the course of conducting Delta research.

1 (e) Encourage and facilitate the sharing of the primary data,
2 samples, physical collections, and other supporting materials
3 created or gathered in the course of conducting Delta research.

4 (f) Release privileged or confidential information only in a form
5 that protects the privacy of individuals and subjects involved.

6 85286.5. The Delta Independent Science Board established
7 pursuant to Section 85280 may adopt guidelines to provide
8 adjustments to, and, where essential, exceptions from, the
9 requirements of this chapter, for the purposes of safeguarding the
10 rights of individuals and subjects, or the validity of the results, and
11 the integrity of collections, or accommodating legitimate research
12 interests. The guidelines adopted pursuant to this section are not
13 regulations for purposes of, and shall not be subject to, Chapter
14 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
15 Title 2 of the Government Code.

16 85287. A state agency that funds or participates in Delta
17 research shall implement policies to disseminate and share Delta
18 research results, ~~in ways appropriate to field and circumstances,~~
19 ~~including through the proposal review process, conducting~~
20 ~~negotiations for, and imposing conditions upon, awards, providing~~
21 ~~appropriate support and incentives for data cleanup, documentation,~~
22 ~~dissemination, and storage, and by taking other similar actions.~~
23 *including, but not limited to, making it a condition of a grant that*
24 *the grantee share research data, collections, and findings with*
25 *other researchers.*

26 85287.5. ~~A researcher that does not provide the information~~
27 ~~in the manner required by this chapter within six months of the~~
28 ~~date of the final publication or public dissemination of the findings~~
29 ~~of the Delta research results is not eligible for state funding until~~
30 ~~the researcher complies with this chapter.~~

31 85288. ~~(a) All legal rights to tangible property collected or~~
32 ~~created during Delta research remain with the researcher, as~~
33 ~~determined by the policies of the organization providing the grant,~~
34 ~~contract, or other agreement specifying the rights and obligations~~
35 ~~of the researcher, except as otherwise provided in that grant,~~
36 ~~contract, or agreement.~~

37 ~~(b) A researcher shall, as a member of the scientific and~~
38 ~~engineering community, make the tangible property specified in~~
39 ~~subdivision (a) appropriately available to other researchers.~~

1 85287.5. *A researcher that does not substantially comply with*
2 *the requirements of Section 85286 within six months of completing*
3 *the Delta research project is not eligible for state funding until*
4 *the researcher complies with those requirements.*

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